

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI**

DANIEL LITTLEPAGE,

Petitioner,

: Case No. 1:20-cv-962

- vs -

District Judge Matthew W. McFarland  
Magistrate Judge Michael R. Merz

JUDGE NORBERT A. NADEL,

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Respondent.

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**RESPONSE TO REQUEST FOR ADMISSIONS**

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This habeas corpus case is before the Court on Petitioner's demand that the undersigned respond immediately to Petitioner's request for admissions (ECF No. 23). Those requests are attached to Petitioner's Objections to the Magistrate Judge's Second Supplemental Report and Recommendations (ECF No. 21) and appear at PageID 117-19. Petitioner asserts the Requests for Admission are made under Fed.R.Civ.P. 36, that the undersigned had a duty to respond within thirty days, and that because no response was made, the matters in the requests are deemed admitted.

The Magistrate Judge declines to respond to the substance of Petitioner's Requests for Admission for the following reasons:

First of all, the Requests were propounded without Court permission. Requests for admissions are one of the discovery mechanisms allowed by the Federal Rules of Civil Procedure to litigants in ordinary civil litigation in federal court. A habeas petitioner movant is not entitled

to discovery as a matter of course, but only upon a fact-specific showing of good cause and in the Court's exercise of discretion. Rule 6(a), Rules Governing § 2254 Cases; Rule 6(a), Rules Governing § 2255 Cases; *Bracy v. Gramley*, 520 U.S. 899 (1997); *Harris v. Nelson*, 394 U.S. 286 (1969); *Byrd v. Collins*, 209 F.3d 486, 515-16 (6<sup>th</sup> Cir. 2000). Littlepage neither sought nor received permission to conduct discovery.

Second, requests for admission under Fed.R.Civ.P. 36 are allowed to be propounded to other parties in the case. Fed.R.Civ.P. 36(a) reads in part "A party may serve on any other party a written request to admit . . ." The undersigned is not a party to this case, but an assigned judicial officer.

For Petitioner's information the Magistrate Judge would note that the Clerk of Courts of Hamilton County, Ohio, has not complied with Petitioner's Praecipe requiring the Clerk to send a document to the undersigned (See ECF No. 23, PageID 126, ¶ 5).

Also of note is Judge McFarland's adoption of the pending Reports and Recommendations (ECF No. 22). The Clerk of this Court will presumably shortly enter judgment in accordance with that Order.

July 5, 2023.

s/ *Michael R. Merz*  
United States Magistrate Judge